

REMARKS

Claims 119, 126, 127 and 129-142 are pending in the subject application. Applicants hereinabove have amended claims 119, 129, 131, and 132. Accordingly, upon entry of this Amendment, claims 119, 126, 127 and 129-142, as amended, will still be pending and under examination.

Applicants maintain that the amendments to the specification and to claims 119, 129, 131, and 132 do not raise any issue of new matter, and that these claims, as amended, are fully supported by the specification as originally filed.

Support for the claim amendments is found, *inter alia*, in the specification as follows: **Claims 119, 129, 131, and 132**: page 53, line 35 to page 54, line 1, and page 58, lines 27-28.

In view of the comments set forth below, applicants maintain that the grounds of the Examiner's rejections made in the February 22, 2005 Office Action have been overcome, and respectfully request that the Examiner reconsider and withdraw these grounds of rejection.

February 16, 2005 Examiner's Interview

On February 16, 2005, the undersigned had a telephonic interview with Examiner Holleran. Applicants again wish to thank the Examiner for her time and consideration during this interview.

Applicants: Philip O. Livingston and Friedhelm Helling
Serial No.: 08/196,154
Filed: November 16, 1995
Page 10

During the interview, the Examiner indicated that the claims 119, 126, 127 and 129-142 are allowable but for the need of a Terminal Disclaimer over U.S. Serial No. 08/477,147, and clarification to claims 119, 127, 131, and 132, specifically, amending "GM2:KLH molar ratio" to recite --GM2 derivative:KLH molar ratio--.

Applicants have carefully reviewed the Examiner's suggestions regarding filing a Terminal Disclaimer over U.S. Serial No. 08/477,147 and amending claims 119, 127, 131, and 132, and have incorporated the Examiner's suggestions in this Amendment. Applicants maintain that this Amendment places this application in condition for allowance and look forward to receiving from the Examiner a communication to this effect.

Rejections Withdrawn In The February 22, 2005 Office Action

The Examiner stated that the rejection of claims 119, 126, 127, and 129-142 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement, is withdrawn in view of the amendment to the claims.

The Examiner stated that the rejection of claims 119, 126, 127, and 129-142 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention, is withdrawn in view of the amendment to the claims and to the specification, and the remarks made on record regarding QS-21.

The Examiner stated that the objection to claims 126 and 129 under 37 C.F.R. §1.75(b), because they appear to claim inventions of the same scope is withdrawn in view of the amendments to claim 126.

The Examiner stated that the rejection of claims 119, 131, 132 and 134-142 under 35 U.S.C. §103(a) as being unpatentable over Wiegand (U.S. Patent No. 5,599,914, issued February 4, 1997) in view of Jennings (U.S. Patent No. 4,356,170, issued October 26, 1982), in view of Neurath (U.S. Patent No. 4,591,552, issued May 27, 1986), in view of Ratcliff (U.S. Patent No. 5,344,870, issued September 6, 1994), in view of Patrick (U.S. Patent No. 4,652,629, issued March 24, 1987), in view of Blincko (U.S. Patent No. 5,256,409, issued October 26, 1993), in view of Marciani (Vaccine, 9:89-96 (February 1991)), in view of Ritter (Seminars in Cancer Biology, 2:401-409 (1991)) and further in view of Livingston (Proc. Natl. Acad. Sci. USA, 84:2911-2915 (May 1987)), is withdrawn in view of applicants' persuasive arguments that one of ordinary skill in the art would not have had a reasonable expectation of success in using QS-21 to increase the immunogenicity of a ganglioside conjugate in view of the teachings of Marciani, which are directed to using QS-21 to increase the immunogenicity of a viral peptide antigen.

The Examiner stated that the rejection of claims 132 and 133 under 35 U.S.C. §103(a) as allegedly unpatentable over Wiegand (U.S. Patent No. 5,599,914, issued February 4, 1997) in view of Jennings (U.S. Patent No. 4,356,170,

issued October 26, 1982), in view of Neurath (U.S. Patent No. 4,591,552, issued May 27, 1986), in view of Ratcliff (U.S. Patent No. 5,344,870, issued September 6, 1994), in view of Patrick (U.S. Patent No. 4,652,629, issued March 24, 1987), in view of Blincko (U.S. Patent No. 5,256,409, issued October 26, 1993), in view of Marciani (Vaccine, 9:89-96 (February 1991)), in view of Ritter (Seminars in Cancer Biology, 2:401-409 (1991)), in view of Livingston (Proc. Natl. Acad. Sci. USA, 84:2911-2915 (May 1987)), and further in view of Irie (U.S. Patent No. 4,557,931, issued December 10, 1985), is withdrawn in view of applicants' persuasive arguments that one of ordinary skill in the art would not have had a reasonable expectation of success in using QS-21 to increase the immunogenicity of a ganglioside conjugate in view of the teachings of Marciani, which are directed to using QS-21 to increase the immunogenicity of a viral peptide antigen.

Provisional Obviousness-Type Double Patenting

The Examiner provisionally rejected claims 119, 126, 127 and 129-142 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the pending U.S. Application No. 08/477,147.

In response to this *provisional* rejection, applicants submit herewith a substitute Terminal Disclaimer, attached hereto as **EXHIBIT A**, with respect to any patent issuing from any one or more of copending U.S. Serial Nos. 08/477,097 and/or 08/477,147.

Applicants: Philip O. Livingston and Friedhelm Helling
Serial No.: 08/196,154
Filed: November 16, 1995
Page 13

Applicants point out that a Terminal Disclaimer with respect to U.S. Serial No. 08/477,097 was previously filed with a December 10, 2003 Amendment in connection with the subject application. Applicants submit the substitute Terminal Disclaimer to replace and supersede in all respects the Terminal Disclaimer filed December 10, 2003.

With the submission of the substitute Terminal Disclaimer, applicants respectfully request that that Examiner withdraw this provisional rejection to claims 119, 126, 127 and 129-142.

Rejection Under 35 U.S.C. §112, Second Paragraph (Indefiniteness)

The Examiner rejected claims 119, 126, 127 and 129-142 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as an invention. Specifically, claims 119, 129, 131, and 132 are indefinite because they refer to a "GM2:Keyhole Limpet Hemocyanin" molar ratio as a characteristic of the conjugate, when the conjugate comprises a "GM2 derivative" as described in the claims. The Examiner stated that this rejection would be obviated by amending claims 119, 129, 131, and 132 to recite: "GM2 derivative:Keyhole Limpet Hemocyanin molar ratio...".

In response to the Examiner's rejection, but without conceding the correctness thereof, applicants have hereinabove amended claims 119, 129, 131, and 132 to now recite: "GM2 derivative:Keyhole Limpet Hemocyanin molar

Applicants: Philip O. Livingston and Friedhelm Helling
Serial No.: 08/196,154
Filed: November 16, 1995
Page 14

ratio...". Thus, applicants maintain that the Examiner's rejection to claims 119, 126, 127 and 129-142 has been obviated.

Summary

Applicants maintain that claims 119, 126, 127 and 129-142, as amended, herein are now in condition for allowance. Accordingly, a notice of allowance is respectfully requested.

If a telephone conference would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

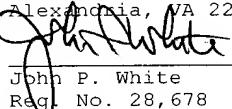
Respectfully submitted,



John P. White
Registration No. 28,678
Attorney for Applicants
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, New York 10036
(212) 278-0400

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


John P. White
Reg. No. 28,678

31.7.05
Date